

John A. Tidy

1851

RULES AND FORMS

IN USE IN THE

DIVISION COURTS

OF THE

COUNTY OF OXFORD,

AS APPROVED OF BY THE JUDGES.



WOODSTOCK:

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1851.

THE LIFE OF

JOHN

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RULES AND FORMS
IN USE IN THE DIVISION COURTS OF THE
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WHEREAS by the Forty-fourth Section of the Act passed in the Fourteenth Year of Her Majesty's Reign, intituled, "An Act to amend and consolidate the several Acts now in force regulating the Practice of Division Courts in Upper Canada, and to extend the Jurisdiction thereof," it is provided, that the Judge of the County Court shall have power, from time to time, to make General Rules for regulating the Practice and Proceedings of the Division Courts, and also to frame Forms for every Proceeding in the said Courts for which he shall think it necessary that a Form should be provided, and also to alter all or any Forms given in the Schedule to the said Act. In pursuance of such powers therefore, the Judge of the County Court of the County of Oxford, doth order that the following be the RULES OF PRACTICE AND FORMS FOR THE DIVISION COURTS, in and for the County of Oxford, to come into force on the Tenth day of April, one thousand eight hundred and fifty-one.

1ST RULE.—The Clerk of every Division Court shall have an office at such place, within the Division for which he is Clerk, as the Judge shall direct.

2ND RULE.—Three Books shall be kept by each Clerk, and the necessary entries be fairly made therein, namely: A Book to be called the "Procedure Book," in which shall be entered a Note of all Summonses issued, and of all Orders, Judgments, Decrees, Warrants, Executions and Returns thereto, and of all other Proceedings in every Cause, and at every Court: A Book to be called the "Cash Book," in which shall be entered an Account of all Suitor's Moneys paid into and out of Court; and a Book to be called the "Fee Fund Book," in which shall be entered an Account of all Fees, Fines, Forfeited Fees, and of all Moneys payable or paid into Court belonging to the General Fee Fund of the Division Courts,—which Books shall be according to the Forms given in the Schedule to these Rules appended, and kept as nearly as may be in the manner shown in the Forms.

3RD RULE.—Every account or demand entered for suit must be written in a legible manner, and show the names in full, and the last known places of abode of the parties, and be delivered to the Clerk at his office.

4TH RULE.—The account or demand entered for suit shall, in every case admitting thereof, show the particulars in detail, and in other cases shall contain a statement of the particulars of the demand, or the facts constituting the cause of action, in ordinary and concise language, and the sum or sums of money claimed in respect thereto—The Forms Nos. IV, V and VI in the Schedule, are given by way of illustration—Provided always, that in all cases the Judge, in his discretion and on such terms as he may think fit, may adjourn the hearing of the cause for a statement of particulars, or further particulars.

5TH RULE.—The Clerk shall number every demand or account in the order in which it is received by him. The numbering to show the standing of the suit, as well with reference to the causes entered for trial at the then next Sittings of the Court, as in respect to the whole number of suits entered in the Court for the then current year.

6TH RULE.—The ordinary summons on demand or account shall be issued, according to the Form No. I, in the Schedule to these Rules appended, in lieu of the form given in the Schedule to the Act; and every summons shall be numbered to correspond with the demand on which it issues, and dated as of the day on which it actually issues.

7TH RULE.—Where the Plaintiff sues under the XC Section of the Act, the proceedings shall be the same as in ordinary cases, but in addition to the usual notice on the original summons to appear, there shall be added the following: "The Defendant is informed and cautioned that (the original Defendant) has no power to discharge this suit without the consent of the Plaintiff, or the Judge, the subject matter of this suit having been seized under execution."

8TH RULE.—The Clerk shall annex to the original summons the account or demand entered with him, according to Rule No. III, and to each copy of summons to be served shall be likewise annexed a copy of such account or demand, sealed or stamped with the seal of the Court.

9TH RULE.—Every summons must be served ten days before the holding of the Court at which it is returnable (neither the day of service, nor the day of holding the Court to be counted,) except when otherwise directed by the said Act. And where any summons has not been served another summons, or successive summonses, may be issued.

10TH RULE.—The Bailiff who serves a copy of summons shall endorse on the original the time and the manner of the service thereof, and sign such endorsement four days before the holding of the Court at which the summons is returnable.

11TH RULE.—Where summons or other process is required to be served out of the Division of the Court from which the same issues, the papers may be transmitted by Mail, by the Clerk issuing same (on receiving the necessary postage) to the Clerk of the Division where the same requires to be served. And such last mentioned Clerk shall forthwith deliver such summons, or other process to the Bailiff of his Division to be executed—And on return thereof made, transmit the papers by Mail, with the necessary affidavit of service, if effected, to the first mentioned Clerk.

12TH RULE.—Where the Defendant desires to avail himself of the law of

set off, the Statute of Limitations, or any other defence requiring notice to the Plaintiff under the XLIII Section, the Forms of Notice Nos. VII and VIII in the Schedule may be used, to be served in manner directed by the Act : Provided always, that where such Notice shall not have been given, the Judge in his discretion, and on such terms as he shall think fit, may adjourn the hearing of the cause to enable the Defendant to give such Notice, such number of days (being at least six) before the day to which the hearing may be adjourned, as the Judge may think proper.

13TH RULE.—[Not approved.]

14TH RULE.—With a view to save unnecessary expense in proof, the Defendant (or Plaintiff) shall be at liberty to give the Plaintiff (or Defendant) a Notice, in writing, that he will admit on the trial of the cause any part of the claim or set off, or any facts which would otherwise require proof; and after such notice given the Plaintiff (or the Defendant) shall not be allowed any expense incurred for the purpose of such proof. The Notice to be according to the Form No. X in the Schedule, or to the like effect, and served on the Plaintiff (or Defendant) or left at his usual place of abode, at least six days before the trial or hearing.

15TH RULE.—Every confession or acknowledgment of Debt, taken before suit commenced, must show the particulars of the claim or demand for which it is given with the same fulness and certainty as would be required if such claim or demand was sued on in the ordinary manner, and unless application for judgment on such confession shall be made to the Judge, at the Sittings of the Court next after the same is taken, no execution shall be issued on the Judgment rendered without an affidavit from the Plaintiff, or his Agent, that the sum confessed, or some, and what part thereof, remains justly due. And the numbering of Judgments entered on such confession shall begin after the number of the last suit entered for trial at the Court; and applications for Judgments shall be made at the Court holden for the Division wherein, if the claim was sued upon, suit would be triable.

16TH RULE.—Every affidavit in any proceeding in the Court must be entitled in the cause (if a cause has been commenced,) stating the Christian and Surname of the parties at length, and also that of the Deponent, and his place of abode and addition. And if an affidavit be sworn by an illiterate person, the Jurat must contain a Certificate of the Clerk, or Commissioner, administering the Oath, that the affidavit was read in his presence to the party making the same, and that such party seemed perfectly to understand it; and there shall be no erasure or interlineation in any Jurat, but the Judge shall not be bound to reject, as insufficient, any affidavit not complying with the above requisites, or any of them, but may, in his discretion, receive the same when the defect shall not seem to him to affect necessarily the validity of the proceedings.

17TH RULE.—Every Judgment, Order and Decree of the Court shall be drawn up by the Clerk, according to the Form given in the Schedule, or to the like effect; and when any Order is made for the payment of any Debt, Damages, Costs or other sum of Money, the same shall be payable at the Office of the Clerk of the Court at such periods as the Court shall order.

18TH RULE.—On application made to him in that behalf, the Judge shall determine what number of witnesses shall be allowed on taxation of Costs; the allowance for whose attendance shall be according to the scale in the Schedule, unless otherwise ordered, but in no case to exceed such scale, except the witness attends under *subpoena* from the Superior Courts; and before allowing disbursements to witnesses, the Clerk shall be satisfied by the receipt of the witness, or by the affidavit of the party, or his agent, that satisfaction to the witness has been made.

19TH RULE.—Every application for a new trial shall be put in in writing, and show briefly the grounds upon which it is made, which grounds, where matters of fact, requiring proof, shall be supported by affidavit, and the application and every affidavit in support thereof, shall be delivered to the Clerk of the Court wherein the cause was tried, to be by him, on receiving the Fees and the necessary Postage, transmitted by Mail to the Judge with a copy of the original claim, or other paper necessary to the proper understanding of the case.

20TH RULE.—Where an application is in the first instance refused by the Judge, the same being notified to the Clerk, the proceedings in the cause shall be continued as if no such application had been made. Where the Judge determines to hear the parties on such application, he shall notify the Clerk thereof, and the hearing shall be at the then next sittings of the Court wherein the suit is pending, and the Clerk shall forthwith issue a summons in the nature of a Rule *nisi*, according to the form of the Schedule, to which shall be annexed the party's application, and every affidavit in support thereof and the same shall operate as a stay of proceedings, and a copy of such summons, to which shall be annexed a copy of the application and of every affidavit in support thereof (such copies to be furnished by the party) shall be served on the opposite party, ten days at least before the day of hearing, and in manner directed by the Statute for the service of a notice of set off; and every copy of affidavit to be used in showing cause against such summons, shall be served on the party applying for the new trial, four clear days before the day of hearing, and in the manner directed by the Statute for the service of a notice of set off.

On the day appointed for the hearing, the Judge, on the appearance of both parties, or in default of the appearance of either party, on proof of the service of the summons, shall proceed to adjudicate upon such application, and to make such order thereupon as shall seem to him to justice to appertain, and all costs incident to the proceeding shall be costs in the cause unless the Judge shall otherwise order.

21ST RULE.—The ordinary judgment against executors or administrators shall be, to pay the debt, or damages, and costs, to be levied out of the goods of the deceased in their hands, and as to the costs, if there are no such goods, then to be levied out of their own goods.

22ND RULE.—Where the defence is, that executors or administrators have fully administered, if it be adjudged by the Court, that they have assets not administered, then a like judgment shall go, as in the above case, but only as to the goods of the deceased to the amount proved to be in their hands, and of assets *quando acciderint* as to the residue, the judgment as to the costs shall be that they be levied *de bonis testatoris si, &c., et si non de bonis propriis*:

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23RD RULE.—If the sole defence by executors or administrators be, that they have fully administered, and the judgment of the Court is for the defendants, it shall be that the amount found to be due be paid and levied out of the assets of the deceased *quando acciderint*, and the costs shall be in the discretion of the Judge, who should in no such case direct costs to be paid by the defendant, unless it shall appear to him that by the course taken in the case, the Plaintiff has been left under the necessity of proving his cause of action.

24TH RULE.—Where judgment has been given against Executors and Administrators that the amount be levied upon the assets of the deceased *quando acciderint*, the Plaintiff may at any time proceed by summons against them, suggesting that assets have come to their hands, and the Court shall proceed and give judgment thereon, if for the Plaintiff as in Rule XXI, and if for the Defendants they shall be entitled to their costs.

25TH RULE.—Where judgment has been given that the debt (or damages) and costs be levied *de bonis testatoris*, and the Plaintiff complains that the Defendants have been guilty of a *devastavit*, inasmuch as no goods of the deceased are forthcoming to satisfy the execution issued, then a summons may be taken out in the form given in the Schedule, or to the like effect, and thereupon, as in ordinary cases, the Court shall proceed to the hearing and judgment, and if judgment be given against such Executors or Administrators, then it shall be that they pay the debt (or damages) and costs, to be levied *de bonis testatoris si &c., et si non de bonis propriis*.

26th RULE.—Where, in an action against Executors or Administrators, the defence is, that they are not Executors or Administrators, or it is founded on some matter or thing arising since the death of the testator or intestate, ex. gr.,—a release to the defendants—if the judgment of the Court be against them, it shall be, that the debt (or damages) and costs be levied and paid *de bonis testatoris si &c., et si non de bonis propriis*.

27TH RULE.—Execution on any judgment is not to issue by or against any person not a party to that suit without a summons upon the judgment, the proceedings in which shall be the same as in ordinary cases, and where judgment has been given for or against a person deceased, his Executors or Administrators may in the same manner sue or be sued on the judgment, and the particulars, summons, judgment and execution, in such case, shall be according to the forms Nos. XXIV, XXV, XXVI, XXVII, XXVIII, in the Schedule, or to the like effect.

28TH RULE.—Where a party having an unsatisfied judgment or order desires to proceed under the 91st Section, he shall enter with the Clerk a copy of the judgment (or order) he proceeds on, and a note in writing according to the form No. XLI in the Schedule, which shall be numbered by the Clerk in the order in which it shall be received, and thereupon a summons, bearing the number thereof, shall issue, which summons shall be according to the form No. XLII, in the Schedule.

29TH RULE.—Every such summons for a party to appear to be examined upon oath under the 91st Section of the said Act, shall be served ten days at least before the day on which the party is required to appear to such summons; Provided always, that the service of such summons at any time before

the time appointed for the appearance of such party may be deemed by the Judge, in his discretion, to be a good service, if it shall be proved to his satisfaction that such party was about to remove out of the jurisdiction of the Court.

30TH RULE.—When any claim shall be made to or in respect to any goods or chattels, property or security, taken in execution, or attached under the process of any Court holden under the authority of the said Act by any person, not being the party against whom such process has issued, and summonses have been issued on the application of the Officer charged with the execution of such process, such summonses shall be served in such time and manner as by the said Act is directed for service of an original summons to appear; and the Claimant shall be deemed the Plaintiff, and the execution Creditor the Defendant. And the Claimant shall, five clear days before the day on which the summonses are returnable, leave at the Office of the Clerk of the Court a particular of any goods or chattels, property or security, alleged to be the property of the Claimant, and the grounds of his claim set forth in ordinary and concise language, and the summonses, the particulars, and the order thereon, shall be according to the Forms Nos. XXXI, XXXII and XXXIII, in the Schedule.

31ST RULE.—Every Bailiff levying and receiving any money by virtue of any process issuing out of the Court, of which he is Bailiff, shall, within three days after the receipt thereof, pay over the same to the Clerk of the Court.

32ND RULE.—At every Court, and at such other times as the Judge shall require, the Bailiff shall deliver to the Clerk of the Court, a Statement or Return on Oath, pursuant to the Form in the Schedule, of what shall have been done, since his last return, under every warrant, precept, and writ of execution, which he shall have been required to execute.

33RD RULE.—The Returns mentioned in the last Rule shall be filed by the Clerk in his Office, and shall be open without fee to the inspection of any person interested, desirous of searching the same, and it shall be the duty of the Clerk to examine such Returns, and, if found correct and complete within ten days after the receipt thereof, to endorse thereon a Memorandum in the following words: "I have carefully examined the within Return, and find the same to be full, true and correct in every particular to the best of my knowledge and belief. Dated the day of 185 . A. B., Clerk." And if such Returns be found by the Clerk to be incorrect or incomplete, he shall forthwith notify the Judge of the same, and the particulars thereof.

34TH RULE.—In all Actions in Division Courts against Officers and their sureties (under the 22nd Sect. of the Act) on the Officers, *Security Covenant*, the particulars of the claim or demand shall be according to the Form No. VI in the Schedule; the summonses and subsequent proceedings to be the same as in ordinary cases.

35TH RULE.—These Rules, and the Forms in the Schedule, hereunto appended, shall be observed and used in all Courts holden under the said Act in the County of Oxford; and in cases not expressly provided for in the said Act, or by these Rules, the General Principles of Practice in the Superior

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XI.

CONFESSION OF DEBT AFTER SUIT COMMENCED.—(Section 51.)
In the Division Court for the County of Oxford.

Between A. B., Plaintiff,
 and
 C. D., Defendant.

I acknowledge that I am indebted to the Plaintiff in the sum of
 and consent that Judgment for that amount and costs may be entered against
 me in this cause according to the Practice of the Court.

Witness,

Dated the

day of

185 .

Clerk,

C. D.

XII.

AFFIDAVIT OF EXECUTION OF CONFESSION.—(Section 54.)
In the Division Court for the County of Oxford.

Between A. B., Plaintiff,
 and
 C. D., Defendant.

E. F., Clerk (or Bailiff) of the Division Court for the said County
 [or of the said Court] maketh oath and saith that he, this deponent, did see
 the above Confession duly executed by the said Defendant, and that he is a
 subscribing witness thereto, and further that he deponent has not received,
 and is not to receive, anything from the Plaintiff or Defendant, or any other
 person [except his lawful fees] for taking such confession, and that he has no
 interest in the demand, sought to be recovered in this action.

Sworn before me at

in the day of

185 .

E. F.

A Comr. in B. R. in and for the said County [or Clerk, &c.]

XIII.

SUMMONS TO JURORS.—(Section 35.)

In the Division Court for the County of Oxford.

You are hereby summoned to appear and serve as a Juror in this court to
 be holden at on at the hour of upon the trial
 of a certain cause wherein is Plaintiff, and is
 Defendant.—herein fail not at your peril.

Given under the Seal of the Court, this

day of

185 .

To

Clerk.

XIV.

SUMMONS TO WITNESS.—(Section 48.)

In the Division Court for the County of Oxford.

Between A. B., Plaintiff,
 and
 C. D., Defendant.

You are hereby required to attend at the Sittings of the said Court to be

holden at on the day of 185 , at the
 hour of in the forenoon, to give evidence in the above cause, on
 behalf of the above named [and then and there to have and produce
 (state particular documents required) and all other papers relating to the said
 action in your custody, possession or power.]

Given under the Seal of the Court, this day of 185 .
 To }

Clerk of the said Court,

XV.

ORDER FOR ADJOURNMENT.

In the Division Court for the County of Oxford.

Between A. B., Plaintiff,
 and
 C.D., Defendant.

Ordered that the Trial of this Cause be adjourned until
 [here state the terms or conditions of the adjournment if any.]

By the Court,

Clerk.

Dated 185 .

XVI.

JUDGMENT AGAINST DEFENDANT FOR DEBT OR DAMAGES.

In the Division Court for the County of Oxford.

Between A. B., Plaintiff,
 and
 C. D., Defendant

It is adjudged that the Plaintiff do recover against the Defendant
 Pounds Shillings and Pence. And it is Ordered,
 That the Defendant do pay the same, with the Costs of Suit, to the Clerk of
 the Court, within days.

Judge.

Dated, 185 .

XVII.

JUDGMENT FOR DEFENDANT.

In the Division Court for the County of Oxford.

Between A. B., Plaintiff,
 and
 C. D., Defendant

It is decreed that Judgment pass against the Plaintiff, and that the Defendant
 do recover against the Plaintiff the sum of as satisfaction for
 his trouble in that behalf, with his costs of defence. And it is Ordered,
 That the Plaintiff do pay the same to the Clerk of the Court within
 days.

Judge.

Dated, 185 .

XVIII.

JUDGMENT FOR DEFENDANT ON SET OFF.

In the Division Court for the County of Oxford.

Between A. B., Plaintiff,
and

C. D., Defendant.

It is adjudged that the Defendant do recover against the Plaintiff pounds, shillings, and pence, and it is ordered that the Plaintiff do pay the same, with the costs of suit to the Clerk of the Court within days.

Dated 185 .

Judge.

XIX.

JUDGMENT OF NON-SUIT, OR DISMISS FOR WANT OF PROSECUTION.

In the Division Court for the County of Oxford.

Between A. B., Plaintiff,
and

C. D., Defendant.

It is adjudged that a Non-Suit be entered in this cause [or that this cause be struck out of the cause list] and that the Plaintiff do pay the Defendant and Costs, and it is ordered that the said sum and the Defendant's Costs of Suit be paid by the Plaintiff to the Clerk of the Court within days.

Dated, 185.

Judge.

XX.

ORDINARY JUDGMENT AGAINST EXECUTORS.

In the Division Court for the County of Oxford.

Between A. B., Plaintiff,
and

C. D., Executor of E. F., deceased,
Defendant.

It is adjudged that the Plaintiff do recover against the Defendant, as Executor as aforesaid, the sum of and his Costs of Suit to be levied out of the goods of the deceased in Defendant's hands, to be administered,—sailing such goods, the Costs to be levied out of Defendant's own goods. Defendant ordered to pay the said sum and costs within days.

Dated, 185 .

Judge.

XXI.

JUDGEMENT FOR PLAINTIFF ON DEVASTAVIT.

In the Division Court for the County of Oxford.

Between A. B. Plaintiff,
and

C. D., Executor of E. F. deceased, Defendant.

It is adjudged that the Defendant has withheld and wasted diverse goods and chattels which were the property of deceased, whereby a

certain Judgment recovered by the Plaintiff on _____ in the
 Division Court for the County of _____ for _____ Debt and Costs
 remains unsatisfied. And it is Ordered, That the Defendant, do pay the
 amount of the said Judgment so unsatisfied, with interest thereon from the
 date thereof, amounting to the sum of _____ together with the Costs of
 this Suit, to the Clerk of the Court within _____ days.

Judge.

Dated, _____ 185 .

XXII.

SUMMONS TO SHOW CAUSE IN APPLICATION FOR NEW TRIAL,

In the Division Court for the County of Oxford.

Between A. B., Plaintiff,

and

C. D., Defendant.

To _____ the above named }
 Plaintiff [or Defendant.] }

You are hereby summoned to be and appear at the next Sittings of
 this Court, to be holden at _____ on the _____ day of _____
 at the hour of _____ to show cause why the Judgment rendered in this
 Cause, at the last Sittings of this Court, and all subsequent proceedings,
 should not be set aside, and a New Trial ordered on grounds disclosed in the
 papers filed (copies whereof are hereunto annexed), and in the event of your
 not so appearing the _____ may proceed to obtain an Order for a New
 Trial, as of course.

In the meantime all proceedings in this cause are stayed.

Dated this _____ day of _____ 185 .

By the Court,

Clerk.

Take Notice—That if you require to use any Affidavit in Showing Cause
 against the Application for a New Trial, a copy thereof must be delivered to
 the said _____ or left at his usual place of abode, if living within the
 Division, or left with the Clerk of the said Court, if the said
 reside without the Division, four clear days before the day of hearing.

XXIII.

ORDER FOR NEW TRIAL.

In the Division Court for the County of Oxford.

Between A. B., Plaintiff,

and

C. D., Defendant

It is ordered that the Judgment rendered in this cause, and all subsequent
 proceedings be set aside and a New Trial be had between the parties on [set
 out the terms or conditions, if any, on which the order is made.]

Judge.

Dated _____ 185 .

Court of Common Law at Toronto, may be adopted and applied, at the discretion of the Judge. And with reference to Forms for Proceedings, not contained in the Schedule to these Rules appended, where practicable, the Forms prescribed in the said Schedule shall be used as guides in framing the same.

36th Rule.—Wherever the singular number is used in these Rules in reference to persons or things, it shall be understood, when necessary to give full effect to the Rule, to mean several persons or things; and every word importing the masculine gender shall, in like manner when necessary, be understood to include the feminine gender.

(Signed,)

D. S. McQUEEN,

Judge County Court, County of Oxford.

Woodstock, 12th March, 1851.

Approved.

Signed, { JNO. B. ROBINSON, C. J.
 { ROBERT E. BURNS, J.

SCHEDULE OF FORMS.

I.

SUMMONS TO APPEAR.—(Section 24.)

In the *Division Court for the County of Oxford.*
No. of demand, 1. }
Year No. 80. }
Between A. B., Plaintiff,
and
C. D., Defendant.

To C. D., the above named Defendant,

You are hereby [as before (or as often before) you were] summoned to be and appear at the next Sittings of this Court to be holden at in the Township of in the said County, on the day of A. D. 185 at the hour of in the forenoon, to answer the above named Plaintiff, in an Action on Contract, (or in an action for Tort,) for the causes set forth in the Plaintiff's statement of claim hereunto annexed, and in the event of your not so appearing the Plaintiff may proceed to obtain judgment against you by default.*

Dated this day of A. D. 185 .
Claim, £ By the Court,
Costs exclusive } Clerk.
of Mileage. }

NOTICE.

Take Notice that if the Defendant desires to set off any demand against the Plaintiff [if the Action be for Tort omit the words in Italics] at the trial or hearing of this cause, or to take the benefit of any Statute of Limitation, or other Statute, Notice thereof in writing, and if a set off, containing the par-

tenors of such set off [omit the words last in Italics if the Action be for 'Tort] must be given to the Plaintiff, or left at his usual place of abode, if living within the Division, or left with the Clerk of the said Court, if the Plaintiff reside without the Division, at least six days before the said trial or hearing.

Endorsement on Summons after the service thereof.

This Summons was served by me on the _____ day of
A. D. 185

Miles travel, A. B., Bailiff.

(Where the Plaintiff intends to proceed under the 91th Section, the following to be inserted in the Summons after the asterisk.)

And in case you are personally served with this Summons, immediately after judgment has been obtained against you, the Plaintiff will make application to the Court to examine you upon Oath touching the manner and circumstances under which you contracted the Debt [or incurred the damages or liability] which is the subject of this Action, and as to the means and expectations you then had, and as to the means you still have, of discharging the said Debt, [or damage or liability,] and as to the disposal you may have made of any property; and application will also be made to commit you to Gaol, under the Provisions of the Statute in such case made and provided, in which case the Judge of the Court will proceed to hear and determine such application, and make such order thereupon as he shall think fit, whether you shall be then present or not.

II.

(SUMMONS ON A DEVASTAVIT.—Section 80.)

In the _____ Division Court for the County of Oxford.

Between A. B., Plaintiff,

and

C. D., Executor of E. F., deceased,
Defendant.

To C. D., the above named Defendant,

You are hereby [as before (or as often before) you were] summoned to be and appear at the next Sittings of this Court to be holden at _____ in the Township of _____ on the _____ day of _____ A. D. 185, at the hour of _____ in the forenoon, to answer the above named Plaintiff in an Action of Contract, for that you the Defendant have withheld and wasted divers goods and chattels which were the property of E. F., deceased, at the time of his death, and which came to the hands of you, the Defendant, as Executor of the said E. F., to be administered, whereby a certain judgment recovered against you by the Plaintiff at the Sittings of this Court, on _____ at _____ for _____ remains unsatisfied, and in the event of your not appearing, the Plaintiff may proceed to obtain judgment against you by default.

Dated this _____ day of _____ A. D. 185

(Add Notice as in Form 1.)

III.

**AFFIDAVIT OF SERVICE OF SUMMONS OUT OF THE DIVISION, OR IN
CASE OF UNAVOIDABLE ABSENCE OF BAILIFF.—(Section 88.)**
In the Division Court for the County of Oxford.

Between A. B., Plaintiff
and

C. D., Defendant.

E. F., Bailiff of the Division Court of the said County [or of the said Court] maketh Oath and saith that he did on the day of 185, duly serve the said with a True Copy of the annexed Summons and Statement of Claim, by delivering the same personally to the said [or if the service was not personal, state how and on whom served,] and that he necessarily travelled Miles to make such service.

Sworn before me at
this day of A. D. 185
Clerk Division Court.

E. F.

IV.

PARTICULARS IN CASES ON CONTRACT.

A. B., of claims of C. D., of the amount of the following account [or the amount of the Note (a copy of which is under written) together with interest thereon.]

A. B.

V.

PARTICULARS IN CASES OF TORT.

A. B., of states that C. D., of did on or about the day of 185 at the Township of unlawfully take one the property of the said A. B., [or as the case may be, stating the Tort sued for in concise language.] The said A. B. hath sustained thereby damages to the amount of £ and claims the same of the said C. D.

A. B.

VI.

PARTICULARS IN ACTIONS AGAINST A CLERK OR BAILIFF AND HIS SURETIES.—(Section 22.)

A. B., of &c., claims of C. D., Clerk [or Bailiff] of the Division Court for the County of and of E. F., of &c., and G. H. of &c., [sureties for and parties with the said C. D., to a covenant for the due performance of the duties of his said Office] the sum of for monies had and received by the said C. D., as such Clerk [or Bailiff] as aforesaid, in a certain cause in the said Division Court, wherein the said A. B. was plaintiff and one H. H. was Defendant, to and for the use of the said A. B., the payment whereof the said C. D. unduly withholds. And also [stating in like manner any other similar claim]—[or the sum of for damages

sustained by the said A. B., through the misconduct [or neglect] of the said C. D. in the performance of the duties of his said office, for that on the day of at (describe in ordinary language the neglect, or misconduct whereby the damage was occasioned).]

A. B.

VII.

NOTICE OF SET OFF.—(Section 43.)

In the

Division Court for the County of Oxford.

Between A. B., Plaintiff,
and

C. D., Defendant.

The Plaintiff is required to take Notice that the Defendant will, at the hearing of this cause, claim a set off against any Debt proved against him by the Plaintiff. The particulars of the Defendants set off are herunto annexed.

Dated

C. D.

VIII.

NOTICE OF DEFENCE UNDER STATUTE.—(Section 43.)

In the

Division Court for the County of Oxford.

Between A. B., Plaintiff,
and

C. D., Defendant.

The Plaintiff is required to take notice that upon the hearing of this cause the Defendant intends to give in evidence, and insist upon the following ground of defence, namely : that the claim for which he, the Defendant, has been summoned, has been barred by the Statute of limitations, [or as the case may be.]

Dated

day of }
A. D. 185 . }

C. D.

IX.—Not Approved.

X.

NOTICE OF ADMISSION TO SAVE UNNECESSARY EXPENSE IN PROOF.

In the

Division Court for the County of Oxford.

Between A. B., Plaintiff,
and

C. D., Defendant,

The Plaintiff is required to take notice, that the Defendant will admit, on the trial of this cause, the first, second and third items of the Plaintiff's particulars to be correct [or the signing and endorsement of the Promissory Note sued upon (or as the case may be).]

Dated

day of

185 .

C. D.

N. B. This Notice may be embodied with notice of set off, or of other defence.

XXIV.

ORDER FOR IMPOSITION OF FINE FOR CONTEMPT.—(Section 75.)
At the Division Court for the County of Oxford, holden
at on the day of

Whereas of on the day and at the place aforesaid,
 in open Court at the Sittings of the said Court now here holden did wilfully
 insult Judge [or Deputy] of the said Court, [or did in the view
 of the Court wilfully insult Clerk (or Bailiff) of the said Court,
 during his attendance in the said Court (or did wilfully interrupt the proceed-
 ings of the said Court).] Now the said Court doth hereby order and adjudge
 that the said E. F. shall pay a fine of for such offence, to the
 Clerk of the Court forthwith; and in default of immediate payment of such
 fine that the said be committed to the Common Gaol of the
 County for days, unless such Fine, and the Costs herein, with
 the expense attending the commitment, be sooner paid.

Given under the Seal of the Court this day of
 A. D. 185

By the Court,

Clerk.

XXV.

ORDER FOR THE IMPOSITION OF A FINE ON A JUROR FOR NON-
 ATTENDANCE.—(Section 35.)

In the Division Court for the County of Oxford, holden
at in the said County, on the day of 185

Whereas it has been made appear to the Court that of
 was duly summoned to attend at this Court, now here holden,
 to serve as a Juror. And whereas the said did not appear at the
 said Court in obedience to the said summons. Now the said Court doth
 hereby order and adjudge that the said shall pay a fine of
 for such default, to the Clerk of the said Court on or before
 the day of [or forthwith]

By the Court,

Given under the Seal of the Court }
 the day and year first above written. } Clerk of the said Court.

XXVI.

ORDER FOR IMPOSITION OF PENALTY ON WITNESS.—(Section 48.)

In the Division Court for the County of Oxford.
 Between A. B., Plaintiff,
 and
 C. D., Defendant

Whereas it hath been made appear to the Court that of
 was duly summoned to be and appear as a Witness in this
 Action at the Sittings of this Court, on this day and at this place, namely :
 On the day of 185, at [and also to
 produce (as the case may be),] and that payment [or a tender of

payment] of his reasonable expenses was duly made to him, the said
 and whereas the said did not appear in
 obedience to the said summons [or having appeared in pursuance of the said
 summons did wilfully refuse to be sworn and give evidence in the said Action
 (or to produce such &c.)]. Or whereas of
 being before the said Court at the Sittings thereof on at
 and being called upon to give evidence in the above cause did then and there
 wilfully refuse to be sworn and give evidence. Now the said Court doth
 hereby order and adjudge that the said shall pay a fine of
 for such neglect [or refusal,] to the Clerk of this Court, on or
 before the day of 185 , [or forthwith] and that the
 sum of , part of the said Fine, shall be paid by the said Clerk to
 the in this Action, being the party injured, by such neglect
 [or refusal] of the said

Given under the Seal of the Court, this day of 185 .

By the Court,

Clerk.

XXVII.

EXECUTION AGAINST THE GOODS OF DEFENDANT.--[Section 53.] 80.

In the Division Court for the County of Oxford.

Between A. B., Plaintiff,
 and
 C. D., Defendant.

Whereas at the Sittings of the said Court holden on at
 by the Judgment of the said Court, the said Plaintiff recovered
 against the said Defendant the sum of Pounds Shillings
 and Pence, for a certain Debt before that time due and owing to the
 said Plaintiff [or for certain damages sustained by the said Plaintiff] together
 with Costs of Suit in that behalf expended : which said Debt [or Damages]
 and Costs were ordered to be paid by the said Defendant at a day now past.
 And whereas the Defendant has not made such payment ; these are therefore
 [as before (or as often before)] to command you forthwith to make
 and levy by distress and sale of the goods and chattels of the Defen-
 dant, wheresoever the same may be found within the County of Oxford,
 (except the wearing apparel and bedding of the said Defendant, or his
 family, and the tools or implements of his trade, if any, to the value of £5)
 the said Debt [or Damages] and Costs amounting together to the sum of
 and your lawful Fees on the execution of this precept ; and also,
 and if necessary for that purpose, to seize and take any Money or Bank Notes,
 and any Cheques, Bills of Exchange, Promissory Notes, Bonds, Specialties,
 or Securities for Money, of the said Defendant which may be there found, or
 such part thereof as may be sufficient for the satisfying of this Execution,
 and the Costs of making and executing the same, so that you may have the

said sum of within thirty days after the date hereof, and pay the same over to the Clerk of the Court for the said Plaintiff.

Given under the Seal of the said Court this day of 185 .

To }
 Bailiff of the said Court, } Clerk.
 Debt [or Damages] £
 Costs - - - - £
 Execution - - - - £

XXVIII.

EXECUTION AGAINST GOODS OF PLAINTIFF.--[Section 83.]

In the Division Court for the County of Oxford.

Between A. B., Plaintiff,
 and
 C. D., Defendant.

Whereas at the Sittings of this Court holden on at
 the said Plaintiff did not make proof of his demand in this cause to the satisfaction of the Court, (or did not appear to prosecute his suit) and thereupon Judgment was given in favor of the said Defendant, (or therefore this cause was struck out of the cause list) and it was ordered and adjudged by the Court that the said Plaintiff should pay the Defendant the sum of by way of satisfaction for his trouble and attendance in that behalf, and also his Costs by the Defendant about his suit in that behalf expended, amounting together to the sum of . And whereas the Plaintiff has not paid the same, these are therefore to command you forthwith to make and levy by distress and sale of the goods and chattels of the Plaintiff wheresoever the same may be found within the County of Oxford, [except the wearing apparel and bedding of the said Plaintiff or his family, and the tools and implements of his trade, if any, to the value of £5] the said sum of and your lawful Fees on the execution of this precept, and also, and if necessary for that purpose, to seize and take any Money, or Bank Notes, and any Cheques, Bills of Exchange, Promissory Notes, Bonds, Specialties or Securities for money, of the said Plaintiff which may be there found, or such part thereof as may be sufficient for the satisfying of this execution, and the Cost of executing the same, so that you may have the said sum of within thirty days after the date hereof, and pay the same over to the Clerk of the Court for the said Defendant.

Given under the Seal of the Court this day of 185 .

To }
 Bailiff of the said Court, } Clerk.
 Judgment, £
 Costs, - - - - £
 Execution, £

XXIX.

EXECUTION AGAINST GOODS OF TESTATOR.

In the Division Court for the County of Oxford.
Between A. B. Plaintiff,
and

C. D., Executor of E. F. deceased, Defendant.

Whereas at a Sitting of the said Court holden on at
by the judgment of the said Court, the said Plaintiff recovered against the
said Defendant, as Executor [or as Administrator] of E. F., deceased, the
sum of for a certain debt before that time due, and owing to the
said Plaintiff by the said E. F., in his lifetime, together with his costs of suit
by the Plaintiff; in that behalf expended, and it was ordered by the Court,
that the Defendant should pay the same accordingly, at a day now past, and
the Defendant has not paid the same, these are therefore to command you
forthwith to make and levy by distresse, and sale of the goods and chattels,
which were the property of the said E. F., in his lifetime, in the hands of the
Defendant to be administered, wheresoever the same may be found within the
County of Oxford, the said debt and the said costs amounting together to
the sum of together with the costs of this execution, and also
and if necessary for that purpose, to seize and take any Money, or Bank
Notes, and any Cheques, Bills of Exchange, Promissory Notes, Bonds, Spe-
cialties, or Securities for money, which were the property of the said E. F.,
in his lifetime, in the hands of the said Defendant to be administered, which
may be there found, or such part thereof as may be sufficient for the satisfying
of this execution, and the costs of making and executing the same, if the
Defendant hath so much thereof in his hands to be administered, and if he
hath not so much in his hands to be administered, then that you make and
levy of the proper goods, notes, and chattels, money, &c., [repeat] of the
Defendant, the sum of for the costs and charges aforesaid, and
the costs of this execution and levying the same, so that you may have the
said moneys within thirty days after the date hereof, and pay the same over
to the Clerk of the Court for the said Plaintiff.

Given under the Seal of the Court, this day of 185

To)
Bailiff of the said Court.) Clerk.
Debt - - - £
Costs - - - £
Execution £

XXX.

SUMMONS TO PLAINTIFF ON INTERPLEADER.—(Section 102.)

In the Division Court for the County of Oxford.

Between A. B., Plaintiff,
and
C. D., Defendant.

Whereas of hath made a claim to certain
goods [or to certain securities, or money, (as the case may be,)] which have
been seized and taken in execution [or attached] under and by virtue of pro-

order issuing out of this Court, in this action, you are therefore hereby summoned and required to be and appear before the Judge of the said Court, at _____ on _____ at the hour of _____ when the said claim will be adjudicated upon and such order made thereupon as to the Court shall seem fit.

Given under the Seal of the Court, this _____ day of _____ 185 .
Clerk of the said Court.

To _____
the above named Plaintiff.

N. B.—The claimant is called upon to give the particulars of his claim, which you may inspect on application at the office of the Clerk of the Court, five days before the day of hearing.

XXXI.

INTERPLEADER SUMMONS TO CLAIMANT.—(Section 102.)
In the Division Court for the County of Oxford.

Between A. B., Plaintiff,
and
C. D., Defendant.

You are hereby summoned and required to appear at a Court to be holden on _____ at _____ touching a claim made by you to certain goods and chattels [or monies, &c., or securities (as the case may be)] seized and taken in execution [or attached] under process issued out of this Court in this action, and in default of your then establishing such claim, the said goods and chattels, will be sold, [or the said monies, &c., paid and delivered over] according to the exigency of the said process, and take notice that you are required five days before the said _____ of _____ to leave at the Clerk's office a particular of the goods and chattels so claimed by you, and the ground of your claim.

Given under the Seal of the Court, this _____ day of _____ 185 .
Clerk of the said Court.

To _____
of _____ }

XXXII.

PARTICULARS OF CLAIM ON INTERPLEADER.—(Section 102.)
In the Division Court for the County of Oxford.

Between A. B., Plaintiff,
and
C. D., Defendant,

To whom it may concern.

A. B. of _____ claims as his property, the following goods and chattels [or monies, &c.] seized and taken in execution [or attached] under process issued out of this Court in this action, as it is alleged, namely, [specify the goods and chattels or monies, &c., claimed,] and the grounds of claim are, [set forth in ordinary language, the particulars on which the claim is grounded], and this the said A. B. will maintain and prove.

(N. B.—If any action for the seizure has been commenced, state in what Court and how action stands.)

Dated this _____ day of _____ A. B.

XXXIII.

ORDER ON INTERPLEADER SUMMONS.—(Sect. 102.)

*In the Division Court for the County of Oxford.*Between A. B., Plaintiff,
and

C. D., Defendant.

It is hereby ordered touching the claim of to certain goods and chattels [or as the case may be] seized and taken in execution [or attached] in this action which the said has been summoned to support his claim at this Court, that the said goods and chattels [or moneys, &c., or part thereof, to wit : (specifying them)] are the property of the said [or of the said Defendant, (or are not the property of the said (as the case may be,)] and it is further ordered [add any order which the Judge shall think fit to make as to the disposal of the subject matter, &c.,] that the costs of this proceeding be paid by the said to the Clerk of the Court, at his office for the use of the said on or before the day of 185 .

Dated this day of 185 .

Judge.

XXXIV.

SUMMONS ON BEHALF OF EXECUTOR TO REVIVE JUDGMENT.—Sec. 73.

In the Division Court for the County of Oxford.

No. of Demand 6. } Between A. B., Executor of C. D., deceased,
Year No. 80. } Plaintiff,

and
E. D., Defendant.

To E. D., the above named Defendant.

Whereas at the Sittings of this Court [or of the late Court of Request, known as Division No. in and for the then District] held at on the above named C. D., in his lifetime obtained a Judgment against you for the payment of which Judgment, a transcript whereof is herunto annexed, still remains unsatisfied, and the said Plaintiff, as Executor as aforesaid, claims to have his execution thereupon against you. You are therefore hereby summoned to appear at the next Sittings of this Court to be holden at on &c. at the hour of to answer to the said Plaintiff, and to show cause, if any you have, why the said Plaintiff as Executor as aforesaid, ought not to have his execution against you to recover the said Judgment. And in the event of your not appearing, Judgment herein will be entered against you by your default.

Dated this day of 185 .

By the Court.

Clerk,

XXXV.

SUMMONS TO REVIVE JUDGMENT AS AGAINST EXECUTOR.—(Sect. 73.)

In the Division Court for the County of Oxford.

No. of Demand 7. }
Year No. 81. }

Between A. B., Plaintiff,
and

C. D., Executor of E. F., deceased,
Defendant.

Amount claimed

Costs exclusive of Mileage

To C. D., the above named Defendant.

Whereas at the Sittings of this Court [or of the late Court of Requests known as Division No. in and for the then District] held at on &c., the said Plaintiff obtained a Judgment against the said E. F., in his lifetime for which Judgment, a transcript whereof is hereunto annexed, still remain unsatisfied; and the said Plaintiff claims to have his execution thereupon against you, as Executor of the said E. F., you are therefore hereby summoned to appear at the next Sittings of this Court, to be holden at on at the hour of to answer to the said Plaintiff, and to show cause, if any you have, why the said Plaintiff ought not to have his execution against you, as Executor as aforesaid, to recover the said Judgment, to be levied of the goods and chattels which were the property of the said E. F., in his lifetime, in your hands to be administered. And in the event of your not appearing, judgment herein will be entered against you by your default.

Dated this day of 185 .

By the Court,

Clerk.

XXXVI.

DECREE ON BEHALF OF EXECUTOR TO REVIVE JUDGMENT.—Sec. 73.

In the Division Court for the County of Oxford.

Between A. B., Executor of C. D., deceased, Plaintiff,
and

E. F., Defendant.

It is decreed that a certain Judgment [set out the Judgment] be revived in favor of the Plaintiff as Executor as aforesaid, against the Defendant; and it is ordered that the Defendant do pay the sum of being the amount remaining unsatisfied on the said Judgment, to the Clerk of the Court within days.

Dated this day of 185 .

Judge.

XXXVII.

DECREE TO REVIVE JUDGMENT AS AGAINST EXECUTOR.—Section 73.

In the Division Court for the County of Oxford.

Between A. B., Plaintiff,
and

C. D., Executor of E. F., deceased,
Defendant.

It is decreed that a certain Judgment [set out the Judgment] be revived in

favor of the Plaintiff against the Defendant, as Executor as aforesaid ; and it is ordered that the Defendant do pay the sum of _____ being the amount remaining unsatisfied on the said Judgment, to the Clerk of the Court within _____ days.

Dated this _____ day of _____ A. D. 185 .

XXXVIII.

EXECUTION AGAINST EXECUTOR ON DECREE TO REVIVE JUDGMENT. -- (Section 73.)

In the Division Court for the County of Oxford.

Between A. B., Plaintiff,
and
C. D., Executor of E. F., deceased,
Defendant.

Whereas at a Sittings of the said Court holden on &c., at _____ it was decreed that a certain Judgment [set out as in decree] should be revived in favor of the Plaintiff against the defendant as executor as aforesaid ; and it was ordered by the said Court that the Defendant should pay the sum of _____ [being the amount remaining unsatisfied on the said Judgment] at a day now past ; and the Defendant hath not paid the same. These are therefore to command you forthwith to make and levy by distress and sale of the goods and chattels which were the property of the said E. F., in his life time, in the hands of the said Defendant to be administered, wheresoever the same may be found within the County of Oxford, the said sum of _____ together with the Costs of this Execution. And also, and if necessary for that purpose, to seize and take any Money or Bank Notes, and any Cheques, Bills of Exchange, Promissory Notes, Bonds, Specialties or Securities for Money, which were the property of the said E. F. in his lifetime, in the hands of the said Defendant to be administered, as may be there found, or such part thereof as may be sufficient for the satisfying of this execution, and the Costs of executing the same, so that you may have the sum of _____ within thirty days after the date hereof and pay the same over to the Clerk of the Court for the said Plaintiff.

Given under the Seal of the Court this _____ day of _____ 185 .

By the Court,

Clerk.

To

Decree for
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XXXIX.

TRANSCRIPT OF JUDGMENT UNDER 57TH SECTION.

In the Division Court for the County of Oxford.
Between A. B., Plaintiff,
and
C.D., Defendant.

The following proceedings were had :—

On the day of a summons requiring the Defendant to answer the Plaintiff's claim for a debt [or for Damages] amounting to £ was issued out of this Court in this cause according to the Statute in that behalf, on the day of the said Defendant was duly served with a copy of the said summons, and of the Particulars of the Plaintiff's claim by a Bailiff of the Court at the Sittings of the said Court holden on at the said cause came on to be tried, and the following Judgment was then and there rendered by the Court: "It is adjudged, &c., (here copy Judgment.) On the day of a Writ of Execution upon the said Judgment was duly issued out of the said Court by the Clerk thereof, which said Writ of Execution was directed to a Bailiff of the said Court, and commanded him, the said to levy the sum of of the goods and chattels of the said Defendant. On the day of the said returned to the Clerk of the Court the said Writ of Execution with a return thereon endorsed in the following words." (Copy Bailiff's Return.)

Pursuant to the 57th Section of the Act passed in the Fourteenth Year of Her Majesty's Reign, entitled: "An Act to amend and consolidate the several Acts now in force, regulating the Practice of Division Courts in Upper Canada, and to extend the Jurisdiction thereof," I Clerk of the said

Division Court for the County of Oxford, do hereby certify and declare that the foregoing is a faithful transcript of the Judgment and proceedings in the above cause as shown and as appears by the original Entries and Records of the Court.

Given under the Seal of the said Court, this day of 185 .
Clerk.

XL.

CERTIFICATE OF JUDGMENT FOR REGISTRATION.—Section 58.

In the Division Court for the County of Oxford.

I, R. B., Clerk of the said Court, do hereby certify that Judgment was rendered in the said Division Court, in favor of Plaintiff, against C. D. of Defendant, on the day of in the year of Our Lord &c., in an Action on Contract for Pounds Shillings and Pence, Debt, together with Costs of Suit, in all Pounds Shillings and Pence, which Defendant was ordered by the said Court to pay—(or as the Judgment may be.)

Year No. 450. }

No. of Demand 10. }

Given under my hand and the Seal of the said Court this
day of 185 .

R. B.

Clerk of the said Court.

XLI.

APPLICATION FOR JUDGMENT SUMMONS.

To A. B., Clerk of the Division Court, County of Oxford.
 Be pleased to summon of &c., to answer according to the Statute
 in that behalf, touching the debt due me by the judgment (or order) of the
 Division Court, on my behalf, a copy of which is hereunto annexed.
 C. D., Plaintiff.

XLII.

SUMMONS TO DEFENDANT AFTER JUDGMENT.—(Section 91.)

In the Division Court for the County of Oxford.
 No. of Demand 5. } Between A. B., Plaintiff,
 Year No. 800. } and
 C. D., Defendant.

To C. D., the above named Defendant,

Whereas at the sittings of this Court, held at on, &c., the above
 named Plaintiff obtained a judgment (or order) against you for the payment
 of: which said Judgment [or order] still remains unsatisfied—you are
 therefore hereby summoned to appear at the next sittings of this Court to be
 holden at on the day of at the hour of to be then and
 there examined by the Judge of the said Court touching your estate and
 effects, and the manner and circumstances under which you contracted the
 said debt [or incurred the damages or liabilities] which was the subject of the
 action in which the said Judgment was obtained against you, and as to the
 means and expectations you then had, and as to the property and means you
 still have, of discharging the said debt [or damages, or liability], and as to the
 disposal you may have made of any of your property.—And take Notice, that
 if you do not appear in obedience to this summons, you may, by order of this
 Court, be committed to the common gaol of the said County.

Given under the Seal of the Court this day of 185 .
 Amount of Judgment, (or Order,) }
 Costs of this Summons, }

By the Court,

Clerk.

XLIII.

WARRANT OF COMMITMENT IN DEFAULT OF APPEARANCE—Sec. 92-95.

In the Division Court for the County of Oxford.
 No. of Demand 6. }
 Year No. 801. }
 Between A. B., Plaintiff,
 and
 C. D., Defendant.

To , Bailiff of the said Court, and to all Constables and Peace
 Officers of the County of Oxford, and to the Gaoler of the common gaol of
 the said County :

Whereas at the Sittings of this Court, holden at on the day
 of , the above named Plaintiff, by the Judgment of the said Court, in a

certain suit wherein the Court had jurisdiction, recovered against the above named Defendant the sum of for a certain Debt before that time due and owing to the said Plaintiff [or for certain damages sustained by the said Plaintiff] together with Costs of Suit in that behalf expended, which said Debt [or damages] and Costs were ordered to be paid by the Defendant at a day now past. And whereas the Defendant not having made such payment, upon application of the Plaintiff, a summons was duly issued from and out of the said Court against the said Defendant, by which said summons the Defendant was required to appear at the Sittings of the said Court holden at on &c., to answer such questions as might be put to him touching (set out as in the summons)—And whereas it was duly proved on oath at the said last mentioned Sittings of the said Court, that the said Defendant was personally served with the said summons,—and whereas the said Defendant did not attend as required by such summons, or allege any sufficient cause for not so attending :—And thereupon it was ordered by the Judge of the said Court that the said Defendant should be committed for the term of days to the common gaol of the said County, according to the form of the Statute in that behalf; or until he should be discharged by due course of law, according to the provisions of the Act of Parliament in that behalf. These are therefore to require you, the said Bailiff, and others to take the said Defendant and to deliver him to the Gaoler of the common gaol of the said County.—And you, the said Gaoler, are hereby required to receive the said Defendant, and him safely to keep in the said common gaol for the term of days, or until he shall be sooner discharged by due course of law, according to the provision of the Act of Parliament in that behalf. For which this shall be your sufficient warrant.

Given under the Seal of the Court this day of 185 .
Clerk of the said Court.

XLIV.

WARRANT OF COMMITMENT AFTER EXAMINATION.—Sections 92-95.

In the Division Court for the County of Oxford.

No. of Demand 5 }
Year No. 800. }

Between A. B., Plaintiff,
and
C. D., Defendant.

To Bailiff of the said Court and to all Constables and Peace Officers of the County of Oxford, and to the Gaoler of the Common Gaol of the said County:

Whereas at the Sittings of this Court holden at on the day of &c., the above named Plaintiff by the Judgment of the said Court, in a certain suit wherein the Court had jurisdiction, recovered against the above named Defendant the sum of for a certain Debt before that time due and owing to the said Plaintiff (or for certain damages sustained by the said Plaintiff) together with costs of Suit in that behalf expended,—which said Debt (or Damages) and Costs were ordered to be paid by the Defendant at a day now past.—And whereas the Defendant not having made such payment,

upon application of the Plaintiff, a summons was duly issued from and out of the said Court against the said Defendant, by which said summons Defendant was required to appear at the Sittings of the said Court, holden at on &c., to answer such questions as might be put to him touching [set out as in the summons].—And whereas the Defendant, having duly appeared at the said Court pursuant to the said summons, was examined touching, &c.—And whereas it appeared on examination to the satisfaction of the Judge of the said Court that [here insert the particular ground of commitment in the language used in the Statute]. E. G., the said Defendant, incurred the Debt (or liability) the subject of this action under false pretences, [or by means of fraud, or breach of trust]; and thereupon it was ordered by the said Judge that the said Defendant should be committed for the term of days to the Common Gaol of the said County, according to the form of the Statute in that behalf, or until he should be discharged by due course of law, according to the provisions of the Act of Parliament in that behalf. These are therefore to require you, the said Bailiff, and others, to take the said Defendant and to deliver him to the Gaoler of the Common Gaol of the said County; and you the said Gaoler are hereby required to receive the said Defendant and him safely keep in the said Common Gaol for the term of days, or until he shall be sooner discharged by due course of law, according to the provisions of the Act of Parliament in that behalf. For which this shall be your sufficient warrant.

Given under the Seal of the Court, this day of 185

Clerk of the said Court.

XLV.

CERTIFICATE FOR DISCHARGE OF A PARTY FROM CUSTODY. (Section 99.)

In the Division Court for the County of Oxford.

No. of Demand 5. }
Year No. 800. }

Between A. B., Plaintiff,
and
C. D., Defendant.

I do hereby certify that the Defendant now in your custody under warrant of commitment in this cause, has, since the issuing of the said warrant, to wit, on the day of , paid and satisfied the debt [or damages], for the non payment whereof, he was so committed, together with all costs and charges due and payable by him in respect thereof and the said Defendant may in respect of such warrant be forthwith discharged from and out of your custody.

Given under the Seal of the Court, this day of 185

To the Gaoler of the Common }
Gaol of the County of Oxford, }

Clerk.

XLVI.

WARRANT TO LEVY FINE UPON WITNESS.—(Section 48.)

In the Division Court for the County of Oxford.

Between A. B., Plaintiff,
and
C. D., Defendant.

Whereas at the sittings of the said Court holden on at
it was made appear to the Court that of was
duly summoned to be and appear at the said sittings as a Witness in this
action [and also to produce—(as the case may be)] and that payment [or a
tender of payment] of his reasonable expenses was duly made to him the said
and whereas the said did not appear at the said
sittings in obedience to the said summons [or having appeared in obedience
to the said summons, did wilfully refuse to be sworn, and give evidence in the
said action (or to produce such &c.,)], (where a witness in Court refuses to
give evidence, instead of the foregoing) ["Whereas of
being before the said Court at the sittings thereof, on at
and being called upon to give evidence in the above cause did then and there
wilfully refuse to be sworn and give evidence."] And thereupon it was
ordered and adjudged by the said Court, that the said should pay
for such neglect [or refusal] a fine of to the Clerk of the Court
on or before the day of [or forthwith]. And where-
as the said hath not made such payment, these are therefore [as
before or as often before], to command you forthwith to make and levy by
distress and sale of the goods and chattels of the Defendant, wheresoever the
same may be found within the County of Oxford, [except the wearing apparel
and bedding of the said or his family, and the tools and implements
of his trade, if any, to the value of £5], the said fine and costs amounting to-
gether to the sum of and your lawful fees on the execution of
this precept, and also to seize and take any money or Bank Notes, and any
Cheques, Bills of Exchange, Promissory Notes, Bonds, Specialties or Securi-
ties for money of the said which may be then found, or such part
thereof as may be sufficient for the satisfying of this execution and the costs
on the same, so that you may have the said sum of within
days after the date hereof, and pay the same over to the Clerk
of the Court:

Given under the Seal of the Court, this day of
A. D. 185 .

To Bailiff of the said Court.

Fine, .

Costs, .

Execution,

XLVII.

WARRANT OF COMMITMENT FOR CONTEMPT.—(Section 75.)

In the Division Court for the County of Oxford.

To Bailiff of the said Court and to all Constables and Peace Officers of the County of and to the Gaoler of the Common Gaol of the said County.

Whereas at a sitting of this Court holden on at in open Court then and there being held of did wilfully insult Judge [or Deputy Judge] of the said Court [or did in view of the said Court wilfully insult Clerk [or Bailiff] of the said Court (or did unlawfully interrupt the proceedings of the said Court)], and thereupon it was ordered and adjudged by the said Court that the said should pay a fine of for said offence, to the Clerk of the said Court, forthwith, and in default of immediate payment of such fine that the said should be committed to the Common Gaol of the County, according to the form of the Statute in such case made and provided, and whereas the said did not pay [or did refuse to pay] the said fine and the costs amounting together to the sum of in obedience to the said order—These are therefore to require you, the said Bailiff, and others, to take the said, if he shall be found within the County of Oxford, and deliver him to the said Gaoler of the Common Gaol of the County of Oxford—and you the said Gaoler are hereby required to receive the said and him safely keep in the Common Gaol aforesaid, for the term of unless the said fine and costs, with the expenses attending the commitment, amounting together to the sum of be sooner paid.

Given under my hand and Seal this day of

[L. S.]

Sealed with the Seal of the Court,

[L. S.]

Clerk of the said Court.

Judge.

XLVIII.

FORM OF BOND ON SEIZURE OR SALE OF PERISHABLE PROPERTY.
(Section 70.)

In the Division Court for the County of Oxford.

Between A. B., Plaintiff,
and
C. D., Defendant.

Know all men by these presents that We, A. B., of [insert place of residence and addition] the above named Plaintiff, E. F., of &c., and G. G., of &c., are, and each of us is, jointly and severally held and firmly bound to of &c., the above named Defendant, in the sum of of lawful money of Canada, to be paid to the said Defendant, his certain Attorney, Executors Administrators and Assigns, for which payment well and truly to be made we bind ourselves, our Heirs, Executors and Administrators, and each and

every of us binds himself, his Heirs, Executors and Administrators, firmly by these presents.

Dated the day of

Whereas the above named Plaintiff hath sued out of the above named Court a warrant of attachment against the goods and chattels of the above named Defendant, and hath requested that certain perishable property, to wit: [specify property] belonging to the said above named Defendant, may be seized and forthwith exposed and sold under and by virtue of the said warrant of attachment [or whereas certain perishable property, to wit: belonging to the above named Defendant have been seized under and by virtue of a warrant of attachment issued out of the above named Court, in the above named cause, and have been duly appraised and valued at the sum of and are now in the hands of the Clerk of the said Court,—and whereas the said above named Plaintiff hath requested the said Clerk to expose and sell the said goods and chattels as perishable property] according to the form of the Statute in that behalf. Now the condition of this obligation is such, that if the said above named Plaintiff do repay to the said above named Defendant the value of the said goods and chattels, together with all costs and damages that may be incurred in consequence of the seizure and sale thereof, in case judgment be not obtained by the Plaintiff according to the true intent of the 70th Section of the Act 13 & 14 Vic., Cap. 53, then this obligation to be void,—else to remain in full force and virtue.

Signed and Sealed in the }
presence of

A. B. [L. S.]
E. F. [L. S.]
G. G. [L. S.]

XLIX.

FORM OF BOND ON SUPERSEDEAS TO WARRANT OF ATTACHMENT. (Section 67.)

In the Division Court for the County of Oxford.

Between A. B., Plaintiff.
and
C. D., Defendant,

Know all men by these presents, that We, C. D., of [insert place of residence and addition] the above named Defendant, E. F., of &c., and G. G., of &c., are, and each of us is, jointly and severally held and firmly bound to of &c., the above named Plaintiff, in the sum of of lawful money of Canada, to be paid to the said Plaintiff, his certain Attorney, Executors, Administrators and Assigns, for which payment well and truly to be paid, we bind ourselves, our Heirs, Executors and Administrators, and each and every of us binds himself, his Heirs, Executors and Administrators, firmly by these presents.

Dated the day of

Whereas the above named Plaintiff hath sued out of the said above named Court, a warrant of attachment against the goods and chattels of the said above named Defendant for the sum of . And under and by virtue

of the said warrant of attachment certain goods and chattels of the said Defendant, to wit : [specify property seized] have been seized and attached ;— And the said Defendant desires that the said warrant be superseded, and the said property so attached restored to him under the provision of the 67th Clause of the Act 13 & 14 Vic., Cap. 53. Now the condition of this obligation is such, that if the said Defendant do and shall, in the event of the claim in the said cause being proved, and Judgment being recovered thereon, as in other cases where proceedings have been commenced against the person, pay the same, or pay the value of the said property so taken and seized, as aforesaid, to the said Plaintiff, or shall produce such property whenever thereunto required to satisfy such Judgment, then this obligation to be void,— else to remain in full force and virtue.

Signed and sealed in the }
presence of }

C. D. [—]
E. F. [—]
G. G. [—]

L.

ALLOWANCE TO WITNESS.—(Section 48.)

| | £ | s. | d. |
|---|---|----|----|
| Per day, - - - - - | 0 | 2 | 0 |
| Travelling expenses per Mile one way, - - - | 0 | 0 | 6 |

[No more than 5s. to be allowed to Witness for any one day's attendance and travel.]

$$\begin{bmatrix} \text{---} \\ \text{---} \\ \text{---} \end{bmatrix}$$

s. d.
 2 0
 0 6
 attendance

Bailiff of the

made in pursuance of Rule numbered thirty-two in the Rules of Practice for the Division Courts in and for the said County, touching all Warrants, Precepts, and Writs of Execution acted on or in hand between the

[illegible]

A. B. above named maketh Oath and saith that the foregoing Return is full, true and correct in every particular.

Sworn before me, at
day of
in the said County, this }
185

C. D., Clerk.

A. B.

Cash Book.

RECEIPTS.

*Account of Suitors' Money paid into the
Division Court for the County of Oxford, commencing
the 1st January, 1851.*

| No. | Style of Cause. | When Received. | From whom Received. | Amount. |
|---|-----------------------|-----------------|---------------------|----------|
| | | | | £ s. d. |
| 47 | Doe vs. Roe. | 24th Jan. 1851. | Defendant. | 10 0 0 |
| 100 | Den vs. Fen et al. | 27th Jan. " | Bailiff. | 5 10 0 |
| 250 | James ats. Jones. | 28th Feb. " | Plaintiff. | 0 18 4 |
| 153 | Thomas vs. Roe et al. | 10th April, " | Wm. Roe. | 20 11 8 |
| Receipts up to 30th of April, - - - - - | | | | £ 37 0 0 |
| Paid to Suitors as per Payment Account, - - - | | | | 27 0 0 |
| Balance in Court 30th April, carried to next Quarter, - | | | | £ 10 0 0 |

To Cash Balance remaining in Court 30th April, £ 10 0 0

357 Johnson ats. Wilson 3rd Sept. 1851. From Plaintiff. 2 7 6

&c.

&c.

&c.

Cash Book.

PAYMENTS.

*Account of Suitors' Monies paid out of the
Division Court for the County of Oxford, commencing
the 1st of January, 1851.*

| Amount. |
|----------|
| £ s. d. |
| 10 0 0 |
| 5 10 0 |
| 0 18 4 |
| 20 11 8 |
| £ 37 0 0 |
| - 27 0 0 |
| £ 10 0 0 |

| No. | Style of Cause. | When Paid. | To whom Paid. | Amount. |
|--|-----------------------|----------------|-------------------|----------|
| | | | | £ s. d. |
| 100 | Den vs. Fen. | 1st Feb. 1851. | Plaintiff. | 5 10 0 |
| 153 | Thomas vs. Roe et al. | 29th April, " | Plaintiff's Atty. | 20 11 8 |
| 250 | James ats Jones, | 29th April, " | Defendant. | 0 18 4 |
| Payment up to 30th of April, - - - - - | | | | £ 27 0 0 |

| |
|-----------|
| £ 10 0 0 |
| ff. 2 7 6 |

| | | | |
|--------------------------|------------------|------------|-------|
| 357 Johnson ats. Wilson. | 20th Sept. 1851. | Defendant. | 2 7 6 |
| &c. &c. | | | |

PROCEDURE BOOK.

First Division COURT for the County of OXFORD.

ENSUING SITTINGS, 26th February, 1851.

200—Year Number.

JOHN DOE,
Town of Barrie.

vs.

Number of Demand—1.
RICHARD ROE,
Township of Vespra.

1851

10th January, *Receive particulars of Plaintiff's demand (on contract) for £2 and Plaintiff paid 1s. 8d. towards costs.*
 11th, " *Issued Summons to Bailiff, costs 1s. 8d., and mileage.*
 24th, " *Summons returned, served.*
 28th, " *Defendant paid £2 1s. 8d., demand and costs.*
 10th February, *Paid Plaintiff £2 1s. 8d., demand and costs deposited.*

201—Year Number.

JOHN DEN,
Township of Oro.

vs.

Number of Demand—2
THOMAS FEN,
Town of Barrie.

10th January, *Received particulars of Plaintiff's demand, (for tort) for £5; Plaintiff paid on account of costs 15s., and directed two subpoenas, and gave notice to try by Jury.*
 12th " *Issued Summons to Bailiff, costs 5s. 9d., and mileage.*
 20th " *Summons returned, served.*
 8th February, *Issued Jury Summonses and Subpoenas to Bailiff.*
 13th " *Jury Summonses returned served, 10 miles travel, Subpoenas served also.*
 20th " *Cause tried, verdict for Plaintiff £5, Judgment thereon for same and costs, ordered to be paid in 30 days.*
 20th March, *Taxed Costs: Fee Fund 3s., Clerk 6s. 3d., Bailiff 12s. 4d., Jury 2s. 6d., Witnesses per Affidavit 10 = £1 14s. 1d.*
 24th " *Defendant paid £6 14s. 1d., in full of Judgment and Costs.*

203—Year Number.

JAMES JONES,
Township of Innisfil.

vs.

Number of Demand—3.
THOMAS THOMPSON,
Town of Barrie.

11th January, *Received particulars of Plaintiff's demand (on contract) for £25, and 6s. 6d. on account of costs from James Patton, Plaintiff's Attorney.*
 12th " *Issued Summons to Bailiff, costs 6s. 6d., and mileage.*
 1st February, *Summons returned served, 9 miles travel.*
 3rd " *Defendant executed cognovit for £25.*
 20th " *Judgment given for Plaintiff, £25 and costs, to be paid in 30 days.*
 10th March, *Taxed costs: Fee Fund 6s. 6d., Clerk 4s. 6d., Bailiff 4s. 6d., = 15s. 6d.,*
 " " *Defendant paid £25 15s. 6d., Judgment and Costs.*

N. B.—The proceedings subsequent to Judgment may be entered and continued in another part of the "Procedure Book."

The foregoing is a transcript of the *Rules of Practice, and Forms* for the *Division Courts* in and for the *County of Oxford*, as approved by the Judges under the 44th Sec. of the Act, 13 & 14 Vic. ch. 53.

D. S. McQUEEN,

Judge, County Court, County of Oxford.

Woodstock, 23rd March, 1851.

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